
By: **Montgomery County Delegation**
Introduced and read first time: February 11, 2003
Assigned to: Rules and Executive Nominations
Re-referred to: Judiciary, February 21, 2003

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2003

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County ~~Arson~~ Fire and Explosive Investigators - Warrantless**
3 **Arrest Power**
4 **MC 311-03**

5 FOR the purpose of authorizing a Montgomery County ~~arson~~ fire and explosive
6 investigator to make an arrest without a warrant under certain circumstances
7 for the commission of certain felonies and certain other crimes; defining a
8 certain term; and generally relating to Montgomery County ~~arson~~ fire and
9 explosive investigators and the power of warrantless arrest.

10 BY repealing and reenacting, with amendments,
11 Article - Criminal Procedure
12 Section 2-209
13 Annotated Code of Maryland
14 (2001 Volume and 2002 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Criminal Procedure**

18 2-209.

19 (A) IN THIS SECTION, "MONTGOMERY COUNTY FIRE AND EXPLOSIVE
20 INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

1 (1) IS ASSIGNED TO THE FIRE AND EXPLOSIVE INVESTIGATIONS
 2 SECTION OF THE MONTGOMERY COUNTY FIRE MARSHAL'S OFFICE; AND

3 (2) (I) HAS THE RANK OF A FIRE RESCUE LIEUTENANT OR HIGHER;
 4 AND

5 (II) HAS SUCCESSFULLY COMPLETED AN APPROVED POLICE
 6 TRAINING SCHOOL AS DEFINED IN § 3-201(A) OF THE PUBLIC SAFETY ARTICLE.

7 (⊕) (B) (1) A fire investigator of the Prince George's County Fire
 8 Department OR A MONTGOMERY COUNTY ~~ARSON~~ FIRE AND EXPLOSIVE
 9 INVESTIGATOR may arrest a person without a warrant if the fire investigator OR
 10 ~~ARSON~~ MONTGOMERY COUNTY FIRE AND EXPLOSIVE INVESTIGATOR has probable
 11 cause to believe:

12 (i) a felony that is a crime listed in paragraph (2) of this subsection
 13 has been committed or attempted; and

14 (ii) the person to be arrested has committed or attempted to commit
 15 the felony whether or not in the presence or within the view of the fire investigator.

16 (2) The powers of arrest set forth in paragraph (1) of this subsection
 17 apply only to:

18 (i) the crimes listed in this paragraph and to attempts,
 19 conspiracies, and solicitations to commit these crimes:

20 1. a crime that relates to a device that is constructed to
 21 represent a destructive device under § 9-505 of the Criminal Law Article;

22 2. setting fire to a dwelling or occupied structure under §
 23 6-102 of the Criminal Law Article;

24 3. setting fire to a structure under § 6-103 of the Criminal
 25 Law Article;

26 4. making a false statement or rumor as to a destructive
 27 device under § 9-504 of the Criminal Law Article; and

28 5. a crime that relates to destructive devices under § 4-503 of
 29 the Criminal Law Article; and

30 (ii) a crime that relates to the unlawful possession or sale of
 31 explosives under Article 38A, §§ 27A and 31 of the Code.

32 (⊕) (C) (1) A fire investigator of the Prince George's County Fire
 33 Department OR A MONTGOMERY COUNTY ~~ARSON~~ FIRE AND EXPLOSIVE
 34 INVESTIGATOR may arrest a person without a warrant if the fire investigator OR
 35 ~~ARSON~~ MONTGOMERY COUNTY FIRE AND EXPLOSIVE INVESTIGATOR has probable
 36 cause to believe:

- 1 (i) the person has committed a crime listed in paragraph (2) of this
2 subsection; and
- 3 (ii) unless the person is arrested immediately, the person:
- 4 1. may not be apprehended;
- 5 2. may cause physical injury or property damage to another;
6 or
- 7 3. may tamper with, dispose of, or destroy evidence.
- 8 (2) The crimes referred to in paragraph (1) of this subsection are:
- 9 (i) reckless endangerment under § 3-204 of the Criminal Law
10 Article;
- 11 (ii) malicious burning under § 6-104 or § 6-105 of the Criminal
12 Law Article;
- 13 (iii) threatening arson under § 6-107 of the Criminal Law Article;
- 14 (iv) burning the contents of a trash container under § 6-108 of the
15 Criminal Law Article;
- 16 (v) making a false alarm of fire under § 9-604 of the Criminal Law
17 Article;
- 18 (vi) making a false statement or report of commission of crime
19 under § 9-503 of the Criminal Law Article;
- 20 (vii) a crime that relates to burning or attempting to burn property
21 as part of a religious or ethnic crime under § 10-303 or § 10-304 of the Criminal Law
22 Article;
- 23 (viii) intentionally activating an alarm under § 9-608 of the
24 Criminal Law Article;
- 25 (ix) a crime that relates to interference, obstruction, or false
26 representation of fire and safety personnel under Article 27, § 11D of the Code;
- 27 (x) attempting, causing, aiding, or abetting:
- 28 1. setting fire to a dwelling or occupied structure in violation
29 of § 6-102 of the Criminal Law Article; or
- 30 2. setting fire to a structure in violation of § 6-103 of the
31 Criminal Law Article;
- 32 (xi) maliciously or negligently setting fires under § 5-704 of the
33 Natural Resources Article;

1 (xii) unlawful discharge or possession of fireworks under Article
2 38A, §§ 16 and 17 of the Code; and

3 (xiii) unlawful manufacture of or dealing in explosives under Article
4 38A, §§ 27 and 31A of the Code.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2003.